

# Transition Advisory Committee Interim Work Plan Components

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REVISED - 9/20/99

## I. Background/Introduction

The Transition Advisory Committee on Electrical Utility Industry Restructuring (TAC) was created by Senate Bill 390 in the 1997 Legislature. The TAC is composed of 24 members, 12 of whom have voting privileges and are Montana legislators--six from each house. The voting membership is bipartisan; i.e., there are equal numbers of Republicans and Democrats. In addition, there are 12 nonvoting advisory representatives that embody a cross section of groups interested in the process of partial deregulation of the electrical industry.

The initial term for members on the TAC expires December 31, 1999. Members appointed by the governor or selected to represent interest groups in the last interim are therefore still on the Committee's membership roster. Subsequent terms must be for up to two years, expiring on January 1 of odd-numbered years. The TAC must dissolve on the date that full transition to retail competition among electricity suppliers is completed or December 31, 2004, whichever happens first.

The Committee has ongoing staff support from Legislative Services Division as well as *ad hoc* assistance from the Public Service Commission and several other state agencies. The TAC must meet at least quarterly, and may meet as often as necessary (within budgetary constraints) to conduct its business. LSD staff recommends that the TAC meet 6 times in the 1999-2000 interim, and hopes the Committee members will agree on the following dates, as they have been selected to avoid conflicts with other committees.

September 24, 1999	November 5
February 18, 2000	April 21
June 23	September 8

Each of these dates is a Friday. Depending on the scope of the TAC's general agenda for the interim, it may be desirable--or even necessary--to hold at least one two-day meeting.

The first meeting, on September 24, will take place in Room B-7 of the Federal Building in Helena. (See enclosed agenda). Subsequent meetings could be held at the same location, or outside Helena, pursuant to the wishes of the Committee members. In the previous interim, for example, the TAC conducted meetings in Missoula, Billings, and Sidney. Advance planning and public notice is crucial to the success of all meetings.

The TAC is required to provide an annual report on the status of electrical industry restructuring on or before November 1 to the Governor, the Speaker of the House, the President of the Senate, and the

Public Service Commission (PSC). Two reports are thus required in this interim: one on or before November 1, 1999, and another prior to November 1, 2000. Regarding the most immediate report, what **IS** the status of restructuring, as of the autumn of 1999? What level of detail should the report include? What format should be used? Will members representing the Consumer Counsel, the PSC, the utilities, cooperatives, the DEQ, etc. submit their own segments of the report?

## **II. Oversight/Implementation of Legislation**

Staff will provide copies of the following at the first TAC meeting, or on request. The amount of time and effort spent on each bill will need to be determined through the Committee's discussion on relative priorities.

3 Senate Bill No. 390 (1997) Monitoring and measuring the transition to effective competition (See excerpts below).

3 House Bill No. 404 (Chapter 372, Laws of 1999; 69-8-501, MCA): Expansion of the TAC's legislative membership; appropriation for TAC

3 Senate Bill No. 406 (Chapter 575, Laws of 1999; Title 35, Chapter 19, Parts 1 through 4, Montana Code Annotated): Enabling the formation of a Purchasers' Cooperative

3 House Bill No. 211 (Chapter 185, Laws of 1999; 69-8-203, MCA): Allowing Local Governments to be licensed as "default suppliers"

3 House Bill No. 174 (Chapter 556, Laws of 1999; codified in titles 7, 15, 17, 20, and 69): Property tax classification changes; adoption of kilowatt-hour tax

3 House Bill No. 337 (Chapter 580, Laws of 1999; 18-4-132, 69-8-103, and 69-8-part 4, MCA): Monitoring/administration of the Universal Systems Benefits Programs

3 Senate Bill No. 409 (Chapter 323, Laws of 1999; 69-8-103, and 69-8-part 6, MCA): Net Metering of electricity

## **III. Administrative Matters/Decisions**

### **1. Membership**

C Selection of presiding officers

C Terms of office (and current members' intentions to remain on the Committee or not)

C Subcommittees (Which, if any, are necessary to fulfill the TAC's overall agenda?)

## 2. Meetings

- C Calendar dates of meetings for interim
- C Location and duration of meetings
- C Conduct of meetings: format(s) for discussion, deliberation, exploration

## 3. Budget

- C Legislative authorization for \$100,000; income sources and allocation
- C Policies regarding expenditures (What is an allowable expense; who decides?)
- C Projected cost of scheduled meetings
- C Secretarial Support; other staff expenses
- C Anticipated travel (destinations; transportation and accommodation costs)
- C Contingencies

## IV. Substantive Issues

What priority does the TAC place on the issues below? Does the Committee want to address all of these, or would it be better to focus on a subset? Are there important issues not listed?

- ' Resolution of Montana Power Company (MPC) "tier 2" issues in transition plan filed w/PSC
- ' Completion of the sale of MPC's generation assets to PP&L Global; distribution of resurfunds
- ' Administration of Universal Systems Benefits funds (Department of Revenue)
- ' PSC rules governing the licensure of electricity suppliers
- ' Bonneville Power policy decisions affecting supply to public utilities
- ' Tax impacts and implications
- ' Customer education efforts; pilot programs
- ' System reliability (governance; self-governance of regional grids)
- ' Federal legislation (pending) and its potential impacts and effects
- ' Regional price trends, especially for small commercial and residential consumers
- ' Administrative rules regarding the default supplier(s)
- ' Relationships between non-profit Coops and Coop/IOU distribution systems (hybrid model)
- ' Determining what "effective competition" means, and what to do in (or about) its absence
- ' What legislative measures (if any) are necessary to ensure the transition to competition?
- ' Others...

## V. Statutory Obligations

Subsections of statutes codified in Title 69 are highlighted with a symbol (5) and printed in *italic* to help identify specific areas of interest and responsibility during the 1999-2000 interim.

Note: The legislative membership of the TAC was increased to 12 voting members by Senate Bill 404 (Chapter 372, Laws of 1999), so the following section will reflect the amendments when codified in the Montana Code Annotated.

**69-8-501. Transition advisory committee.** (1) A transition advisory committee on electric utility industry restructuring is created. The transition advisory committee is composed of eight voting members who are appointed as follows:

(a) The speaker of the house shall appoint four members from the house of representatives, not more than two of whom may be from one political party.

(b) The president of the senate shall appoint four members from the senate, not more than two of whom may be from one political party.

(2) The following entities shall appoint nonvoting advisory representatives to the transition advisory committee:

(a) The director of the department of environmental quality shall appoint one department representative.

(b) The legislative consumer committee shall appoint one representative.

(c) One representative of the cooperative utility industry is appointed as designated by the Montana electrical cooperative association.

(d) The public utilities in the state of Montana shall appoint one member.

(e) The commission shall appoint one member.

(f) The governor shall appoint the following nonvoting committee members:

(i) one representative from the industrial community with an interest in the restructuring of the electric utility industry;

(ii) one representative from the nonindustrial retail electric consumer sector;

(iii) one representative from organized labor;

(iv) one representative from the community comprising environmental and conservation interests;

(v) one representative from a low-income program provider;

(vi) one representative of Montana's Indian tribes; and

(vii) one representative of the electric power market industry.

(3) In case of a vacancy, a replacement must be selected in the manner of the original appointment.

(4) Legislative members are entitled to salary and expenses as provided in 5-2-302.

(5) The public service commission, legislative services division, and appropriate state agencies shall provide staff assistance as requested by the committee.

(6) Transition advisory committee members must be appointed within 60 days of May 2, 1997, to an initial term expiring on December 31, 1999. Subsequent terms must be for up to 2 years expiring

on January 1 of odd-numbered years.

(7) The voting members shall select a transition advisory committee presiding officer.

(8) The transition advisory committee on electric utility industry restructuring must dissolve on the earlier of either the date that full transition to retail competition is completed or December 31, 2004.

(9) The transition advisory committee shall provide an annual report on the status of electric utility restructuring on or before November 1 to the governor, the speaker of the house, the president of the senate, and the commission and shall provide quarterly interim summary reports to the members of the legislature through January 1, 1999.

(10) The transition advisory committee shall meet at least quarterly or as often as is necessary to conduct its business.

5 (11) *The transition advisory committee shall analyze and report on the transition to effective competition in the competitive electricity supply market. The annual report made in the year 2000 must evaluate specifically the pilot programs for customers with loads under 1,000 kilowatts and must include legislative recommendations, if it appears appropriate, about the best means to further encourage the development of customer choice and meaningful market access for the benefit of smaller customers. The annual report for the year 2000 must also address the need, if any, for additional consumer protection including protection from abusive or anticompetitive practices.*

(12) *The criteria that the transition advisory committee must use to evaluate effective competition in the electricity supply market include but are not limited to the following:*

(a) *the level of demand for power supply choice and the availability of market prices for smaller customers;*

(b) *the existence of sufficient markets and bargaining power to the benefit of smaller customers and the best means to encourage and support the development of sufficient markets;*

(c) *the level of interest among electricity suppliers and the opportunity for electricity suppliers to serve smaller customers; and*

(d) *the existence of the requisite technical and administrative support that enables smaller customers to have choice of electricity supply.*

(13) *The transition advisory committee shall recommend legislation if necessary to promote electric utility restructuring and retail choice of electricity suppliers.*

(14) The transition advisory committee shall make recommendations to the governor, regarding the implementation of statewide universal system benefits and universal energy assistance funds, in time to allow for those funds to be created on or before January 1, 1999. This may include recommendations regarding the assignment of an existing government agency or private, nonprofit entity as the fund administrator and administration guidelines for the funds, including the means by which funds may be made available for use.

5 (15) *The transition advisory committee shall monitor and evaluate the universal system benefits programs and comparable levels of funding for the region and make recommendations to the 58th legislature to adjust the funding level provided for in 69-8-402 to coincide with the related activities of the region at that time.*

(16) On or before July 1, 2002, the transition advisory committee, in coordination with the

commission, shall conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the 58th legislature regarding the future need for those programs. The determination must focus specifically on the existence of markets to provide for any or all of the universal system benefits programs or whether other means for funding those programs have developed. These recommendations may also address how future reevaluations will be provided for, if necessary.

5 (17) *On or before November 1, 2001, the transition advisory committee shall collect information to determine whether Montana utilities or their affiliates have an opportunity to sell electricity to customers outside of the state of Montana comparable to the opportunity provided pursuant to this chapter to utilities or their affiliates located outside the state of Montana. That information must be included in the report to the 58th legislature.*

(18) On or before November 1, 1998, the transition advisory committee shall make recommendations to the governor and the legislature regarding the provision of low-income energy assistance programs in Montana by all energy providers. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the transition advisory committee. The annual report must include but is not limited to:

- (a) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;
- (b) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and
- (c) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

**69-8-104. Pilot programs.** (1) Except as provided in 69-8-201(4) and 69-8-311, beginning July 1, 1998, utilities shall conduct pilot programs using a representative sample of their residential and small commercial customers. *5 A report describing and analyzing the results of the pilot programs must be submitted to the commission and the transition advisory committee established in 69-8-501 on or before July 1, 2000.*

(2) Utilities shall use pilot programs to gather necessary information to determine the most effective and timely options for providing customer choice. Necessary information includes but is not limited to:

- (a) the level of demand for electricity supply choice and the availability of market prices for smaller customers;
- (b) the best means to encourage and support the development of sufficient markets and bargaining power for the benefit of smaller customers;
- (c) the electricity suppliers' interest in serving smaller customers and the opportunities in providing service to smaller customers; and
- (d) experience in the broad range of technical and administrative support matters involved in designing and delivering unbundled retail services to smaller customers.

**69-8-203. Public utility -- customer choice -- continued service -- education of customers.** (1) A customer is permitted to choose an electricity supplier pursuant to the deadlines established in 69-8-201. Public utilities shall propose a method for customers to choose an electricity supplier.

(2) If a customer has not chosen an electricity supplier by the end of the transition period, a public utility shall propose a method in the public utility's transition plans for assigning that customer to an electricity supplier.

(3) A public utility may phase in customer choice to promote the orderly transition to a competitive market environment pursuant to the deadlines in 69-8-201.

5 (4) *Public utilities shall educate their customers about customer choice so that customers may make an informed choice of an electricity supplier. This education process must give special emphasis to education efforts during the transition period.*

**69-8-402. Universal system benefits programs.** (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance during the transition period and into the future.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the annual funding level for universal system benefits programs. Unless modified as provided in subsection (7), this funding level remains in effect until July 1, 2003.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) Utilities must receive credit toward annual funding requirements for a utility's internal programs or activities that qualify as universal system benefits programs, including those portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for customers' programs or activities as provided in subsection (7).

(c) A utility at which the sale of power for final end-use occurs is the utility that receives credit for the universal system benefits program expenditure.

(d) For a utility to receive credit for low-income related expenditures, the activity must have taken place in Montana.

(e) If a utility's or a customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) A utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(a) A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities.

(b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal energy assistance fund.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) A customer with loads greater than 1,000 kilowatts shall:

(i) pay a universal system benefits program charge equal to the lesser of:

(A) \$500,000 less the customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the customer's kilowatt hour purchases, less customer credits provided for in this subsection (7);

(ii) receive credit toward that customer's annual universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits program expenditure and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the customer's facility; and

(B) those portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Customers making these expenditures must receive a credit against the customer's annual universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that customer's universal system benefits charges.

## **VI. Information Resources**

During the previous interim, staff included bibliographic references and Internet websites to readers of the TAC quarterly newsletter. The following list includes several such sources of information about electrical industry restructuring elsewhere in the United States and in other parts of the world.

- *The Restructuring of the Electric Power Industry: A Capsule of Issues and Events*, Washington, D.C., National Energy Information Center, Energy Information Administration, 1998.
- *Restructuring the Electric Industry*, A Special Report in the SOLUTIONS series, Cindy J. Lackey, The Council of State Governments, 1999.
- *Customer Choice, Consumer Value: An Analysis of Retail Competition in America's Electric Industry* (Vol. 1), Michael T. Maloney & Robert E. McCormick, with Raymond D. Sauer, Citizens for a Sound Economy Foundation, Washington, D.C., 1998.
- *Possible Effects of Competition on Electricity Consumers in the Pacific Northwest*, Stan Hadley and



Eric Hirst, Oak Ridge National Laboratory and U.S. Dept. of Energy, 1998.

<http://www.psc.mt.gov> {Montana Public Service Commission}

<http://eren.doe.gov/electricity> {U.S. Department of Energy}

<http://www.powermarketers.com> {A consortium of firms, with good links to other sites}

<http://www.rff.org> {Resources for the Future, which publishes useful articles and reports}

<http://www.energy.gov.ab.ca/electric/index.htm> {The Government of Alberta}

<http://www.ferc.fed.us> {Federal Energy Regulatory Commission}